Supreme Court, U.S.
FILED
SEP 27 2004
OFFICE OF THE CLERK

No. 04 444

IN THE

Supreme Court of the United States

MELITA PICCIOTTO AND ATHENA PICCIOTTO
Petitioners,

v.

MICHAEL C. GILLERAN AND OTHERS,

Respondents.

On Petition For Writ Of Certiorari
To The Supreme Judicial Court For
The Commonwealth Of Massachusetts

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

This petition for writ of certiorari appeals the final judgment or decree of the Supreme Judicial Court of Massachusetts (SJC) denying the Petitioners further appellate review on lifting the lower court's injunction, and continued seizure of the Petitioners' property, for the benefit of private parties. A jury verdict January 6, 2002, and the trial court's entry of final judgment March 22, 2003, fixed and liquidated the amounts owed by the Petitioners. Therefore, the Petitioners state that the continued retention by the State of the Petitioners' property (settlement funds that were deposited with the court in 1999 to satisfy attorney liens), constitutes deprivation of property without due process of law. The petition for writ for certiorari also requests review of the failure of the Supreme Judicial Court of Massachusetts to be concerned by the lack of proper decorum and degenerating standards in the Massachusetts courts, while the courts are in session. The questions presented for review are:

1. Whether due process is violated if, after final judgment is entered by the trial court (which establishes and liquidates the amounts owed by the parties) the state courts can continue to deprive United States citizens of their property, above and beyond the sum needed to satisfy the judgement.

2. Whether the dignity and decorum of an American courtroom requires that the State must prohibit, rather than encourage, jurors to sit in the jury box

dressed in Halloween costumes and be passed candy and joke bumper stickers by the defendant's opposition.

3. Whether it is further permissible for a presiding state court judge to order the removal of the American flag from the courtroom during the proceedings and have the court in session without the American flag present, and while sworn testimony is provided to the jurors.

PARTIES TO THE PROCEEDING

The parties to the proceeding in this Court are the Petitioners (Melita Picciotto and Athena Picciotto), and Michael C. Gilleran, Esq.; Gilleran & Mortenson, P.C.; Pepe & Hazard, LLP; Albert Zabin, Esq., Robert Costello, Esq., and Joanne D'Alcomo, Esq., Schneider, Reilly, Zabin & Costello, P.C.; Schneider, Reilly, LLP; Joel Eigerman, Esq.; Roche, Carens & DeGiacomo, P.C.; Edwin McCabe, Esq.; McCabe, Brown & Davis, P.C.; Edward Greer, Esq.; Judith Picciotto; Stefano Picciotto; Juan Nunez; Foreign Car Center, Inc.; George Richardson, Esq.; Warren Five Cents Savings Bank; and Travelers Indemnity Company.

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PETITION FOR WRIT OF CERTIORARI

Petitioners Melita Picciotto and Athena Picciotto respectfully petition for a writ of certiorari to review the final judgment or decree of the Supreme Judicial Court of the Commonwealth of Massachusetts (SJC) in this case, which upheld the Appeals Court decisions by refusing to grant further appellate review.

OPINIONS BELOW

The opinion of the SJC was not reported (App. a.). the opinions of the Appeals Court Panels were not reported (App. b and App. d). The opinion of the Single Justice of the Appeals Court was not reported App. f).

JURISDICTION

I. THE UNITED STATES SUPREME COURT HAS JURISDICTION.

28 U.S.C. § 1257 states in pertinent part:

> (a) Final judgments or decree rendered by the highest court in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any state is drawn in question on the grounds of it being repugnant to

the Constitution, treaties, or laws of the United States.

The denial of further appellate review by the Massachusetts SJC was entered June 30, 2004. Therefore, in seeking to have their property released to them, the Petitioners have exhausted their state court remedies. The Massachusetts SJC has been given fair opportunity to review the merits of the Petitioners' claim for purpose of exhaustion of state court remedies; *Roman v. Estelle*, 917 F.2d 1505 (9th Cir. 1990). This case involves the seizure of the Petitioners' property by the State[1] without due process of law. The issue of wrongful seizure and continued retention of the petitioners' entire settlement funds was first raised in the trial court pretrial. It was also raised in the trial court after the jury verdict was rendered. The issue of the violation of procedural due process by conducting a trial lacking the proper dignity and decorum was also first raised at the trial court and throughout the appeal. The single justice of the Appeals Court refused to grant the Petitioners any relief. The Appeals Court Panel refused to grant any relief, and the Supreme Judicial Court of Massachusetts refused to address it, or provide any further appellate review. It is therefore within the jurisdiction of this Court to issue a writ; *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S. 541, (1949), See also *Firestone Tire & Rubber Co .v Risjord*, 449 U.S. 368 (1981).

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[1] "The provisions of [the Fourteenth Amendment of the Constitution of the United States provide] that no State shall deprive any person of his property without due process of law, or deny to any person the equal protection of the laws, govern the actions of the courts."; *King v. Grace*, 293 Mass. 244 (1936), quoting *Mooney v. Holohan*, 294 U.S. 103 (1936).

CONSTITUTIONAL PROVISIONS INVOLVED

The constitutional provisions involved in this case are:

1. The Due Process Clause of the Fifth Amendment of the U.S. Constitution, which applies to the states under the incorporation doctrine;

2. The Due Process Clause of the Fourteenth Amendment of the U.S Constitution; and

3. The Equal Protection Clause of the Fourteenth Amendment.

The State has caused a deprivation of significant property interest of the Petitioners, without due process of law, and without the equal protection of the established state laws. In the instant case the State has further provided a trial without dignity or decorum, which violates the Due Process Clause and/or the Equal Protection Doctrine. Those constitutional provisions have been reproduced at App. h.

STATEMENT OF THE CASE

September 1994, the Petitioners filed a toxic tort suit for personal injuries against a leather manufacturing company located in Peabody, Massachusetts. April 30, 1996, the defendant (the leather manufacturer) filed for a chapter 11 bankruptcy protection. January 6, 1999, during the bankruptcy proceedings, the Petitioners settled their toxic tort case with the insurer for the defendant, Travelers Indemnity Company ("Travelers"). The

settlement sum for the Petitioners was 2 million dollars.[2] All terms and conditions to said settlement were reviewed and approved by the presiding justice at the U.S. Bankruptcy Court in Boston.

After the settlement occurred, numerous attorneys (only some of whom had represented the Petitioners), sought to take the entire settlement in attorneys' fees and costs, and, although no longer counsel of record for the Petitioners, demanded that Travelers send the entire settlement check to them. Travelers, claiming to fear exposure to multiple claims, deposited the Petitioners' settlement funds in the Suffolk Superior Court in Boston, Massachusetts, in what is called an interpleader action. The trial judge took jurisdiction over the fund, released Travelers from the proceedings, and realigned the parties. The trial court designated the attorney lienholders to be the plaintiffs, and the Petitioners to be the defendants.

As set forth below, the attorney lienholders filed a slew of claims against the Petitioners' funds. The attorney lienholders asserted the refusal to immediately pay their fee demands constituted an "unfair or deceptive act or practice." Thus, they also sought to have any fees the jury would award them be doubled or trebled, pursuant to the state consumer protection statute of M.G.L. c. 93A, § 11.

January 6, 2002, the jury rendered their verdicts. The jury found that the Petitioners only owed the attorney lienholders the following sums:

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[2] Other settlors were involved in the settlement agreement. They settled their claims for the sum of 7 million dollars.

- Pretrial, Attorney Albert P. Zabin, et al, demanded 40% of the Petitioners' 2 million dollars (i.e., $800,000.00), and sought to have the court award double or treble that sum in damages because Attorney Zabin[3] claimed that the Petitioners had engaged in unfair settlement practices to defraud him of those fees;

  The jury awarded Attorney Zabin: $ 0.00.

- Attorney Edward Greer also advanced claims against the petitioners, but the amount was never liquidated.

  The jury awarded Attorney Greer: $ 0.00.

- Attorney Edwin McCabe's claims were partially liquidated and partially unliquidated. The liquidated amount, alone, was in the sum of $134,014.97.

  The jury awarded Attorney McCabe: $ 68,507.00

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[3] Even though he had a personal financial interest in the outcome of the trial, Albert P. Zabin's law partner, Robert Costello, admitted to going over to the Suffolk Superior Court to have an *ex parte* meeting with the trial judge. The *ex parte* meeting occurred while the trial judge had jurisdiction of the case. The judge denied the meeting when initially confronted. He admitted to it after learning that Mr. Costello had admitted to it under oath. Mr. Costllo also admitted that during the meeting he had offered the trial judge a prestigious social position. The trial judge also took the case by *de facto* assignment, in violation of procedural due process and the Equal Protection Clause, as the Massachusetts Superior Court has a rotation system for judges in order to ensure fairness to litigants.

- Attorney Michael Gilleran demanded 35% of the Petitioners 2 million dollars (i.e. $750,000.00);

The jury awarded Attorney Gilleran: $ 15,747.30[4]

The trial court, pretrial, released the Petitioners $200,000 of their 2 million dollar settlement to defend their property from the attorney claims to their entire settlements. However, in violation of due process, the trial court, pretrial, refused to make a determination of what the reasonable likelihood of recovery of the attorney lienholders was, as is required by Rules 4.1 and 65 of the Massachusetts Rules of Civil Procedure. Although the court took possession of the funds in April of 1999. The trial court did not require verified complaints or affidavits from the attorney lienholders. The trial court simply took control of the Petitioners' property, ruling that it would make a determination after the close of discovery. However, the trial court never did make a determination on the reasonable likelihood of recovery of the attorney lienholders. The Massachusetts Appeals Court has ruled that this conduct constitutes a violation of due process; *Alexander & Alexander, Inc. v. Danahy*, 488 N.E.2d 22; 21 Mass. App. 488 (1986), but that standard was not applied to the Petitioners.

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[4] $15,747.30 is the exact amount that the Petitioners had offered to pay Attorney Gilleran all along. However, Attorney Gilleran refused to accept it because he was seeking 35% of their settlement funds instead (i.e., $700,000.00). Attorney Gilleran clearly overreached. Overreaching is illegal in Massachusetts; *In the Matter of Fordham*, 423 Mass. 481, 668 N.E. 2d 816, 825 (1996). However, in the instant case courts have turned a blind eye to the overreaching, and consider it a non-issue in the Petitioners' pleadings.

Despite the above verdicts, after the jury trial the trial court declared that the attorney lienholders were the prevailing parties, and imposed a 12% penalty interest against the Petitioners, and also awarded the attorney lienholders their costs, stating it was a "punishment" for taking the attorneys' fee claims to trial. October 2002, the trial court established the amounts that the Petitioners owed to the attorney lienholders, pursuant to the jury verdict, plus the court's imposed punishment interest.

November 2002, the Petitioners moved the trial court to release the money owed to the attorney lienholders according to the jury verdict, plus interest, and release the rest of the money that belonged to the Petitioners (which was held by the trial court). The trial court refused to do that without providing any reason. March 22, 2003, the trial court entered final judgment, and left the distribution of the court-held funds unaddressed. Appeals to the final judgment were taken. The States are split on the issue that a trial court judgment is final, and has preclusive effect, regardless of the fact that a judgment is on appeal. Some Federal and State decisions have ruled that a trial court judgment has preclusive effect, regardless of the fact that a judgment is on appeal; See, e.g., *Southern Pac. Communications Co. v. American Tel. & Tel. Co.*, 740 F.2d 1011, 1018-1019 (D.C. Cir. 1984); *Bartlett* v. *Pullen*, 586 A.2d 1263, 1265 (Me. 1991); *O'Brien v. Hanover Insurance Company*, 427 Mass. 194, 692 N.E.2d 39 (1998) at 44, 427 Mass. 194, 692 N.E.2d 39 (1998). Other courts have ruled that a trial court judgment does not have preclusive effect while the judgment is on appeal; see, e.g., *Sandoval v. Superior Court*, 140 Cal. App. 3d 932, 936-937; 190 Cal. Rptr. 29 (1983); *Petition of Dono*van, 137 N.H. 78, 81;

623 Atl. 2d 1322 (1993). *In re Bogdanovich*, 292 F.3rd 104, 39 Bankr Ct. Dec 197, 2nd Cir. (N.Y.) (2002); *Robi v. Five Platters, Inc.*, 838 F.2d 318, 5 U.S.P.Q.2d 1709, 9th Cir. (Cal.) (1988); *Eichman v. Fotomat Corp.*, 759 F.2d 1434, 1985-1 Trade Cases P 66, 606, 9th Cir. (Cal.) (1985); *McConnell v. Travelers Indemnity Co.*, 346 F.2d 219, 9 Fed. R. Serv.2d 1.3, 2, 5th Cir. (La.) (1965); *Rivera Rodriques v. First Bank Puerto Rico*, 184 F. Supp.2d, *D.Puerto Rico* (2002); *In re Transworld Foods, Inc.*, 41 B.R., 363, Bankr. M.D. Fla., Aug. 8, 1984; *In re Overmyer*, 32 B.R. 597, Bankr. S.D.N.Y. (1983); *In re* Levitt, 18 B.R. 598, Bank.E.D. Pa. (1982); and *In re: Meade Land & Development Co., Inc.*, 1 B.R. 279, 5 Bankr. Ct. Dec 991, Bank.E.D. Pa. (1979).

Massachusetts is one of the States that has ruled that a judgment is final when a trial court enters judgment, and that said judgment has preclusive effect; *O'Brien v. Hanover Insurance Company*, *supra.* In other words, the amounts that were owed to the attorney lienholders by the Petitioners became fixed and liquidated, and the rest of the Petitioners' court-held funds is the property of the Petitioners. Since the jury verdict established that the Petitioners owe the attorney lienholders less than $100,000.00, and the court imposed a 12% "punishment" interest (as of April of 1999, when the settlement funds were deposited into the court), the maximum amount the Petitioners could possibly owe the attorney lienholders is approximately $160,000.00. Since the trial court released the Petitioners $200,000 of their 2 million dollar settlement funds on deposit with the court, and the Petitioners received no additional funds, the Petitioners are being wrongly deprived by the State of approximately 1.6 million dollars of their own property.

However, since this case involves the financial interests of insiders of the Massachusetts courts,[5] the present courts have denied the Petitioners the equal protection of the laws.

Since the trial court refused to allow the Petitioners to pay the attorney lienholders after the judgment, and also refused to release the Petitioners their property, the Petitioners sought relief pursuant to M.G.L. c. 231, § 117, and Mass. R.A.P. 6 (a), as amended 378 Mass. 931 (1979). The Single Justice of the Appeals Court refused to grant any relief, ruling that the Petitioners had failed to show that the "extraordinary relief sought was warranted in these circumstances" (App. f). The Petitioners appealed to the Appellate Panel. The Appellate Panel refused to grant any relief (App. b and App. c). The Petitioners requested further appellate review from the Massachusetts SJC, but were denied further appellate review (App. a).

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[5] "An attorney at law is not merely a member of a profession practicing for personal gain; he or she is an 'officer of the court'"; In re: Keenan, 47 N.E.2d 12, 313 Mass. 186 (1943).

REASONS FOR GRANTING THE WRIT

1. To determine if, after the trial court has entered final judgment that establishes and liquidates the amounts owed by a defendant, a State court may continue to hold the defendant's property, above and beyond the amounts needed to satisfy the judgment; or if that constitutes a violation of the Fifth and/or Fourteenth Amendments to the United States Constitution.

2. The Massachusetts SJC has been vigilant about the property rights and equal protection of same sex partners; *Goodridge & others v. Department of Public Health & another*, 440 Mass. 309, 7798 N.E. 2d 941 (2003). However, it has been derelict about the property rights of minor children,[6] and others when the financial interests of insiders of the courts are at stake. That constitutes unequal treatment under the law. "The equal protection clause provides that no State shall deny to any person within its jurisdiction the equal protection of the laws." *Bankers Life and Cas. Co. v. Crenshaw*, 486 U.S. 71, 83 (1988). This language

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[6] Petitioner Athena Picciotto was a minor child during the lower court proceedings. The law imposes upon the courts a "heightened duty" to be extra sensitive to the interests of minor children. In fact, "Every minor plaintiff is a ward of the court when involved in litigation, and the court has a duty to protect minors' interests"; *Jamie Lynn OTT, A Minor, by her Father and Next Friend, Mark Out et al., v. Little Company of Mary Hospital, et al.*, 273 Ill. App.3d 563, 652 N.E.2d 1051, 210 Ill. Dec. (1995); *Prince v. Commonwealth of Massachusetts*, 321 U.S. 158, 64 S.Ct. 438 (1944). Instead, the Massachusetts courts afforded the Petitioner Athena Picciotto virtually none.

essentially mandates that "all persons similarly situated should be treated alike."; *Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432, 439 (1985). This case provides an opportunity to ensure that the same standards that apply to other parties who engage in trade or commerce shall apply to attorney lienholders, despite being insiders of the courts.

3. Further, litigants should not be subject to a trial where the jurors are allowed to sit in the jury box and take evidence while dressed in Halloween costumes.

4. Litigants should not be in a courtroom where the American flag and the symbol of the court's authority is demeaned by the sitting judge's removal during the proceedings.[7]

5. Litigants should not be subjected to courts that authorize their opposition to pass out candies and joke bumper stickers to the jurors seated in the jury box. (The conduct degenerated to the point that the opposition passed out a cast list of who should play whom in the movie about this case. They suggested Robert Duvall of *Civil Action* fame be cast to play the trial judge, while the individual jurors were cast to be played by Jodi Foster, Robert DiNiro, etc.)

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[7] M.G.L. c. 220, § 1, states that "The flag of the United States . . . shall be displayed in every court of justice of the Commonwealth while the court is in session."

6. Litigants should not have their property taken away to accumulate interest for the unfair benefit of insiders of the courts.

7. Consumer groups such as Massachusetts Public Interest Research Group (MASSPRIG), and Common Cause have recognized, and vigorously protest what they deem to be an ethical crisis in the present Massachusetts courts. When MASSPIRG learned of the conduct in the lower court, stating that they were acting on behalf of 45,000 Massachusetts consumers of legal services, they filed an *amicus brief* on behalf of the Petitioners, asking the higher court, to " . . . issue an order to show cause why a judicial investigation or a disciplinary investigation should not be initiated," regarding the conduct in the lower court. MASSPRIG's request was summarily denied (App. g). The problem for citizens of the State of Massachusetts is so pervasive that Common Cause wrote in a recent fund raiser flyer, "Our state system is in crisis and we are working hard to improve accountability and ensure that our courts permit the speedy and fair delivery of justice. We are also working to achieve a passage of a strong new ethics reform law." A recent report by a formally appointed commission (J. Donald Monan, S.J., Chair, March 4, 2003; http: www. Mass.gov/courtreform/final.pdf) found that the citizens of Massachusetts are served by a seriously flawed judicial system that has little or no judicial accountability, and is in dire need of reform.

CONCLUSION

This case presents serious issues regarding due process and the level of dignity and decorum that is acceptable in an American court of law. The United States Supreme Court is asked to take judicial notice that Massachusetts is just one of three States in which judges are appointed for life, and they receive no outside periodic review. Despite the constitutional guarantees The Massachusetts SJC conducts itself in an insulated manner, and often fails to supervise obviously unacceptable conduct in the lower courts. From the Petitioners' standpoint, that conduct includes using the courts as an officially sanctioned vehicle to literally rob its citizens of their own funds for the benefit of insiders of the courts, and, worse yet, allowing them to enjoy a party-like atmosphere as they do it. The Petitioners respectfully request this Honorable Court grant certiorari to review those standards.

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APPENDIX

SUPREME JUDICIAL COURT FOR THE COMMONWEALTH OF MASSACHUSETTS

RE: Docket No. FAR-14168

MELITA PICCIOTTO & another
vs.
ROBERT V. COSTELLO & others

App. Ct. Single Justice SU No. SUCV1999-01594
A.C. No. 2003-P-0925 2003-P-925
(Travelers Indemnity Company
vs. Stefano Picciotto & others)

NOTICE OF DENIAL OF F.A.R. APPLICATION

Please take note that on 06/30/04, the above-captioned Application for Further Appellate Review was denied. (Sosman, J., recused)

Susan Mellon, Clerk

Dated: June 30, 2004

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

03-P –925

TRAVELERS INDMENITY COMPANY

VS.

STEFANO PICCIOTTO & others[1]

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

In the underlying interpleader action filed with the agreement of the Picciottos, a judge dismissed the Travelers Indemnity Company (Travelers) from the case with prejudice after Travelers had transferred certain settlement proceeds into a court-administered escrow account. The narrow issue presented for review here is whether the single justice abused his discretion in denying the petition of Melita and Athena Picciotto, pursuant to M.G.L. c. 231, § 17, and Mass. R.A.P. 6(a), as amended, 378 Mass. 391 (1979), seeking a full or partial release of the remaining funds held in the account.

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[1] Judith Picciotto; Melita Picciotto; Athena Picciotto; Juan Nunez; Foreign Car Center, Inc.; Albert P. Zabin, Robert V. Costello, and Joann D'Alcomo, individually and as partners in a partnership known as Schneider, Reilly, Zabin & Costello, P.C.; Schneider, Reilly, LLP; Michael C. Gilleran, Esq.; Gilleran & Mortenson, P.C.; Edwin McCabe, Esq. McCabe, Brown & Davis, P.C.; Edward Greer, Esq.; and Warren Five Cents Savings Bank.

After reviewing the record that was before the single justice and considering the arguments of the parties, we conclude that the Picciottos have failed to demonstrate any abuse of discretion in the denial of relief.

To the extent that the Picciottos challenge certain rulings made during the course of the instant appeal, we find no abuse of discretion by the single justice.

The motion to lift the injunction filed by Melita Picciotto and Athena Picciotto is denied.

The motion to file a supplemental brief filed by Melita Picciotto and Athena Picciotto is allowed.

Order denying petition for relief affirmed.

Order denying motion to order all parties to submit to mediation, or in the alternative, to release sufficient money to the Picciottos affirmed.

Order denying motion for reconsideration affirmed.

By the Court (Gelinas, Smith, & Trainor, JJ.)

Assist, Clerk

"s/_____".

Entered: May 10, 2004

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

03-P-1003

MELITA PICCIOTTO & another[2]

vs.

ROBERT V. COSTELLO & others[3]

MEMORANUDUM AND ORDER PURSUANT TO RULE 1:28

The judgment of dismissal entered in Suffolk Superior Court civil action No. 01-2319 is affirmed substantially for the reasons stated in the brief of the defendant attorneys, and for the reasons stated in pages twenty-two through thirty-seven and forty-two of the corrected brief of the defendant Travelers Indemnity Company.

Judgment Affirmed.

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2 Athena Picciotto, a minor. by her father and next friend, Stefano Picciotto.

3 Albert P. Zabin and Joann D'Alcomo, individually and as partners of Schneider, Reilly, LLP; Edward Greer; Joel Z. Eigerman; Michael C. Gilleran, individually and as a partner of Pepe & Hazard, LLP; Gilleran & Mortenson, P.C.; Pep & Howard, LLP; Edwin McCabe; The McCabe Group; and Travelers Indemnity Company

By the Court (Gelinas, Smith, & Trainor, JJ.),

Assist, Clerk

"s/_____".

Entered: May 10, 2004

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

RE: No. 2003-J-0274

TRAVELERS INDMENITY COMPANY

VS.

STEFANO PICCIOTTO & others

NOTICEOF DOCKET ENTRY

Please take note that, with respect to the MOTION for stay under MRAP 6(A) and Petition pursuant to G.L. c. 231, § 117 with attach, filed by Melita Picciotto and Athena Picciotto. (Paper #1),

on June 11, 2003, the following order was entered on the docket of the above-referenced case:

Re#1 The petition is denied for failure to show that the extraordinary relief sought is warranted in these circumstances. (Grasso, J.) *Notice/Attest/Sikora, J..

Very truly yours,

The Clerk's Office

Dated: June 11, 2003

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT
CLERK'S OFFICE
1500 NEW COURT HOUSE
BOSTON, MASSACHUSETTS 02108
96170 725-8106

November 29, 2002

RE: No. 2002-P-1003

MELITA PICCIOTTO & another
vs.
ROBERT V. COSTELLO & others

NOTICE OF DOCKET ENTRY

Please take note that, with respect to the Motion to file amicus brief by Massachusetts Public Interest Research Group (MASSPIRG), with brief attached. (Paper #251),

on November 27, 2002, the following order was entered on the docket of the above-referenced case.

RE#25: Denied. (Mills, J.) *Notice.

Very truly yours,

The Clerk's Office

Dated: November 29, 2002

AMENDMENT [V]

Deprivation of property without due process of law

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use; without just compensation.

AMENDMENT [XIV]

Property rights and equal protection of the laws not to be abridged by the States

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State where in they reside. No State shall make or enforce any law, which shall abridge the privileges of immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.